PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant(s):	Kenneth Wills	
Filed:	October 30, 2000	
Art Unit:	3663	
Examiner:	Matthew Luu	
Title:	METHODS AND SYSTEM FOR INFORMATION SEARCH AND RETRIEVAL	

Docket No.: 043474/256751
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P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL APPEAL BRIEF UNDER 37 CFR § 41.37

This Supplemental Appeal Brief is filed to update the "Related Appeals and Interferences" section due to a decision being rendered in connection with the related case. As such, the only changes to this Supplemental Appeal Brief with respect to the Appeal Brief previously filed relate to the submission of a copy of the decision handed down in connection with the related case and a copy of Appellants' request for rehearing that was filed in response to the decision.

1. ***Real Party in Interest.***

The real party in interest in this appeal is Travelocity.com LP, the assignee of the above-referenced patent application. Travelocity.com LP is currently a wholly-owned subsidiary of Sabre Inc.

2. ***Related Appeals and Interferences.***

Related U.S. Patent Application No. 10/367,001 to Kenneth Wills entitled METHODS AND SYSTEM FOR INFORMATION SEARCH AND RETRIEVAL was previously listed as

being under appeal with Examiner Javid Amini in art unit 2672. Appeal 2007-0967 was decided on May 31, 2007, affirming the Examiner's rejections. A copy of the Decision on Appeal for Appeal 2007-0967 is provided in the related proceedings appendix. Appellants have also included herewith in the Evidence Appendix, a copy of Appellants' Request for Rehearing under 37 CFR § 41.47, which was filed in response to the Decision on Appeal.

3. ***Status of Claims.***

The present application currently includes Claims 29, 30, 32, 33 and 35-39, which all stand rejected.

4. ***Status of Amendments.***

There are no unentered amendments in this application.

5. ***Summary of Claimed Subject Matter.***

The present invention relates to methods for retrieving information, and for searching and retrieving information. *See* Pat. Appl., page 13, line 22 – page 17, line 17; and Fig. 7. The method includes sending or receiving a request identifying a first site, and range data defining a distance from the first site. For example, with the method of the claimed invention, a user may send the following request: "'I want to know about Italian restaurants within 5 miles of Niagara Falls.'" *Id.* at page 14, lines 8-9. After sending or receiving the request, trip planning information is selected based on the identified site(s) (e.g., Niagara Falls) and the range data (e.g., 5 miles), and thereafter received or otherwise output.

In an embodiment according to independent Claims 29 and 38, the request identifies two sites of interest (e.g., Flagstaff and Phoenix) and a type of location of interest that the user may wish to visit when traveling between the two sites (e.g., hotels, restaurants, etc.). *Id.* at page 15, lines 6-13. In response to such a request, information associated with the first and second sites is selected based upon the type of location of interest and, if so desired, using a geometric shape (e.g., rhombus) generated based upon the first and second sites. *Id.* The geometric shape is generated based on a first distance value representing the distance between the first and second

sites and a second distance value representing a function performed on the first distance value. *Id.* at page 15, lines 9-13.

In yet another embodiment according to independent Claims 32 and 35, the request identifies a site and a type of location of interest, where trip planning information is selected based upon the site, the type of location of interest, and a range that may be variable. In this regard, the range can be determined based upon stored information associated with the type of location of interest, e.g., whether the location of interest is the Empire State Building or Yellowstone National Park. *See*, e.g., Pat. App. p. 14, lines 20-25. In addition, the range is variable in that it can be varied based on the number of locations of interest located within a predetermined distance of the site. In this regard, the range can be increased if the trip planning information for the current range does not include sufficient information relating to the identified type of location of interest. *See id.* at page 15, line 24 – page 16, line 2; and page 16, lines 17 – 24.

6. ***Grounds of Rejection to be Reviewed on Appeal.***

Claims 29, 30, 38 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bellesfield et al. (U.S. Patent No. 6,498,982, hereinafter "Bellesfield") in view of DeLorme et al (U.S. Patent No. 5,802,492, hereinafter "DeLorme"). Claims 32, 33 and 35-37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bouve et al. (U.S. Patent No. 5,682,525, hereinafter "Bouve") in view of DeLorme.

7. ***Argument.***

A. Description of Cited Prior Art

Bellsfield discloses an automated travel planning apparatus and method that includes a map database, a routing database and a places of interest database. In operation, upon receipt of a selected geographic region, the apparatus displays a bit-mapped image of the region from images in the map database. A user then selects a departure and destination point, and the routing database is used to generate a route between the selected departure and destination

points. Also, if the user requests a list of places of interest near the route, the places of interest database can be utilized to generate a list of places of interest that are within a predetermined distance of the generated route. In this regard, the places-of-interest database organizes the places according to common geographic centers, which may comprise the cities with which the respective places are most commonly associated. More particularly, then, the list of places of interest are generated according to geographic centers within the predetermined distance of the route between the departure and destination points.

DeLorme discloses a travel reservation information and planning system and method. According to the method, users engage in a planning process, whereby the users plan, revise or edit travel plans. The users can also preview alternate routes, select points of interest, and compare times and costs of transportation options such that the users can achieve a final travel plan. For example, the system can include a point-of-interest database that allows users to select types of attractions or accommodations within a user-defined region around routes of travel.

Bouve discloses a system and method for remotely accessing a selected group of items of interest from a database. As described, a user can access a common database from a remote communications port, at any qualified location, to generate a map or other positional information which locates selected items of interest, e.g., businesses, stores, architectural sites, and the like. The database contains information representing the items of interest, including, for each item of interest, positional coordinates of the item, a geographic vicinity of the item, and a selected category of the item. The positional coordinates discretely locate the vicinity, while the vicinity specifies the exact locations of the items of interest in the selected category. For example, a user can select the display of sporting shops in the area surrounding Chicago O'Hare International Airport. In this regard, Bouve discloses displaying a geographic vicinity about the user or a desired destination. More particularly, Bouve discloses that the scope of the geographic vicinity for the items of interest is generally within walking distance of the user or desired destination. Column 6, lines 59-60 (although, at column 11, lines 11-14, Bouve does indicate that the user can select a greater radius for display or another destination location).

B. Claims 29, 30 and 38, 39 are Patentable over Bellsfield/DeLorme

As recited by amended independent Claims 29 and 38, a method is provided for retrieving information, and searching and retrieving information, respectively. The method includes sending or receiving a request identifying at least a first site, a second site and a type of location of interest. Thereafter, information associated with the first and second sites is received or sent, where the information is selected based upon the type of location of interest. In independent Claim 29 recites that the information is selected using a geometric shape generated based upon the first and second sites, and independent Claim 38 specifically recites generation of the geometric shape. More particularly, as amended, the geometric shape has been generated (Claim 29) or is generated (Claim 38) based on a first distance value representing the distance between the first and second sites, and a second distance value representing a function performed on the first distance value.

In contrast to the claimed invention of amended independent Claims 29 and 38, neither Bellsfield nor DeLorme, individually or in combination, teach or suggest selecting information using a geometric shape generated based on a first distance value representing the distance between the first and second sites, and a second distance value representing a function performed on the first distance value, or accordingly generating such a geometric shape. As an initial matter, Applicants query as to whether Bellesfield even discloses a geometric shape. The final Office Action states that FIG. 6 of Bellesfield shows a method that generates "a geometric curve shaped route" between first and second sites. However, Applicants respectfully submit that although a curve certainly has a shape, the curve is not a geometric shape. A geometric shape is not formed until a shape obeying the laws of geometry (e.g., having a determinable area) is formed. As such, contrary to the Examiner's allegations, Bellesfield does not disclose creation of a geometric shape, as recited in the claims.

Notwithstanding the above, Bellesfield further fails to teach or suggest creation of a geometric shape that is generated based on a first distance value representing the distance between the first and second sites, and a second distance value representing a function performed on the first distance value as claimed in independent claims 29 and 38. The Office Action

alleges that the recited feature corresponds to Bellsfield's disclosure of the distance between a point C and a destination point A (i.e., C + A), and the distance between point C and destination point A plus an additional destination point B (i.e., C + A + B) (see FIG. 6 of Bellesfield below). Applicants respectfully disagree.

As recited by the claimed invention, a request is sent or received that identifies at least a first site, a second site and a type of location of interest, with information selected using the aforementioned geometric shape being thereafter received or sent. The geometric shape is generated based on a first distance value representing the distance between the first and second sites and a second distance value representing a function performed on the first distance value. Bellesfield fails to teach or suggest at least that the geometric shape is generated based on a second distance value representing a function performed on the first distance value. For the sake of comparison only, consider the example presented by the Office Action. Even if it is assumed that the distance between a point C and a destination point B (i.e., C + B) is analogous to the first distance value and the distance between point C and point A is analogous to the second distance value, the distance between point C and destination point A is not based on a function performed on the distance from point C to point B (i.e., the first distance). Instead, the distance between point C and destination point B plus an additional destination point A (i.e., C + A + B) merely represents the first distance (C + B) with a waypoint A inserted along the route between the start point C and destination point B. Thus, Bellesfield discloses a route generated based only on a first distance value being the distance between the first and second sites, and not based on a second distance value representing a function performed on the first distance value. Since Bellesfield fails to teach or suggest any function performed on the distance between point C and destination point B to determine the distance between point C and point A, Bellesfield fails to teach or suggest creation of a geometric shape that is generated based on a first distance value representing the distance between the first and second sites, and a second distance value representing a function performed on the first distance value as claimed in independent claims 29 and 38.

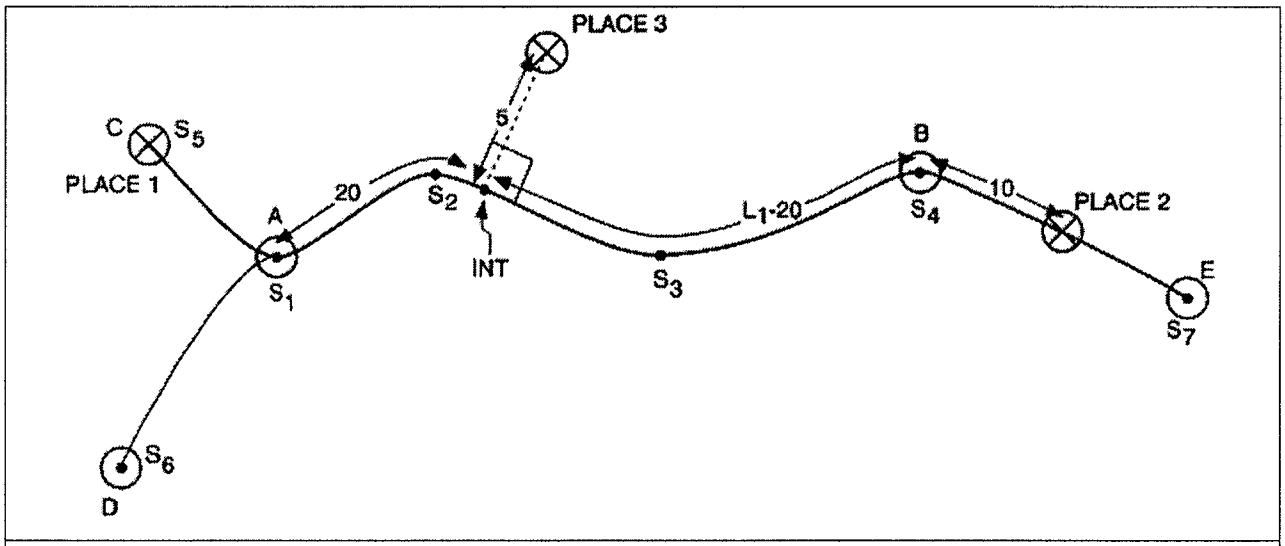

FIG. 6, Bellsfield Patent

The Office Action further alleges that DeLorme also discloses the aforementioned feature of the claimed invention. More particularly with reference to FIG. 5A of DeLorme, the Office Action alleges that DeLorme discloses generating a circle about a first site such that a second site corresponds to any location on the circle, the circle's radius R corresponding to the recited first distance value representing the distance between the first and second sites. The Office Action then alleges that DeLorme discloses a user resizing the radius R and thus the circle, where the distance between the first site and a location on the larger radius corresponds to the recited second distance value. Again, Applicants respectfully disagree.

Even if a location on the circle of radius R could reasonably correspond to the recited second site, and even if the radius R could reasonably correspond to the recited first distance value, DeLorme does not teach or suggest that the circle is also generated based upon a second distance value representing a function performed on the first distance value, as is the geometric shape of the claimed invention. In fact, DeLorme does not teach or suggest that the circle about the first site is generated based upon any value other than the radius R. The Office Action seems to suggest that if the user increases the radius of the circle to a larger radius (referred to herein as R+), that larger radius corresponds to the second distance value. Increasing the radius of the circle, however, generates a new circle having radius R+, which is still the only distance value

upon which the larger circle is generated. Thus, at any given instance, the circle about the first site is generated based upon only the radius of the respective circle (R or R+), and not based upon two distance values, whether the recited first and second distance values as in the claimed invention or otherwise.

Since neither Bellesfield nor DeLorme, teach or suggest that the geometric shape is generated based on a first distance value representing the distance between the first and second sites, and a second distance value representing a function performed on the first distance value as claimed in independent claims 29 and 38, Applicants respectfully submit that the claimed invention of independent Claims 29 and 38, and by dependency Claims 30 and 39, are patentably distinct from Bellsfield and DeLorme, taken individually or in combination. Accordingly, Applicants respectfully request that the rejection of Claims 29, 30 and 38, 39 as being unpatentable over Bellsfield in view of DeLorme be reversed.

C. Claims 32, 33 and 35-37 are Patentable over Bouve/DeLorme

Independent Claims 32 and 35 of the present application recite methods for searching and retrieving information, and for retrieving information, respectively. As recited, the methods include receiving or sending a request including a site and a type of location of interest. Then, trip planning information is provided or received based upon the site, the type of location of interest, and a range. As recited by independent Claim 35, the range is variable. More particularly, as recited by independent Claim 32, the range is determined, including being varied based on the number of locations of interest located within a predetermined distance of the site. In addition, the range is based upon stored information associated with the type of location of interest, e.g., whether the location of interest is the Empire State Building or Yellowstone National Park. *See*, e.g., Pat. App. p. 14, lines 20-25.

In contrast to the methods of independent Claims 32 and 35, neither Bouve nor DeLorme, individually or in combination, teach or suggest providing or sending trip planning information for a type of location of interest based on a range determined based on stored information associated with the type of location of interest. The Office Action alleges that Bouve discloses

the aforementioned feature, citing column 6, lines 39-60 as support for its allegation. In contrast to the allegations of the Office Action, however, Applicants respectfully submit that Bouve fails to teach or suggest this feature of the claimed invention, as explained below.

For the sake of comparison only, the scope of the vicinity about either the user location or a desired location, as disclosed by Bouve, can be considered to most readily correspond to a range, as recited by the claimed invention. In contrast to the methods of independent Claims 32 and 35, Bouve fails to teach or suggest that the range (i.e., scope of the vicinity) is based upon stored information associated with a type of location of interest (e.g., businesses, stores, architectural sites, etc.). Rather, Bouve defines the range (i.e., scope of the vicinity) as being set based upon a walking distance of the user, irrespective of the type of location of interest. Accordingly, Bouve fails to teach or suggest providing or sending trip planning information for a type of location of interest based on a range determined based on stored information associated with the type of location of interest as claimed in independent Claims 32 and 35.

Similar to Bouve, Applicants respectfully submit that DeLorme does not teach or suggest providing or sending trip planning information for a type of location of interest based on a range determined based on stored information associated with the type of location of interest, as recited by the claimed invention. Furthermore, the Office Action does not cite DeLorme as disclosing such feature.

Accordingly, since neither Bouve nor DeLorme individually teach or suggest the above recited feature of the claimed invention, the combination of Bouve and DeLorme likewise does not teach or suggest this feature. Applicants therefore respectfully submit that independent Claims 32 and 35, and by dependency Claims 33, 36 and 37, are patentably distinct from Bouve and DeLorme, taken individually or in combination. Accordingly, Applicants respectfully request reversal of the rejection of Claims 32, 33 and 35-37 as being unpatentable over Bouve in view of DeLorme.

8. ***Claims Appendix.***

The claims currently on appeal are as follows:

29. A method for retrieving information, comprising:

sending a request identifying at least a first site, a second site and a type of location of interest; and

receiving information associated with the first and second sites and selected based on the type of location of interest and selected using a geometric shape generated based on the first and second sites, the geometric shape having been generated based on a first distance value representing the distance between the first and second sites, and a second distance value representing a function performed on the first distance value.

30. The method of claim 29, wherein the information includes information related to locations of interest that are associated with the type of location of interest identified in the request, wherein the locations of interest are located within the geometric shape.

32. A method for searching and retrieving information, comprising:

receiving a request including a site and a type of location of interest;

determining a range for the site based on stored information associated with the type of location of interest, wherein determining a range includes varying the range based on the number of locations of interest located within a predetermined distance of the site; and

providing trip planning information based on the range, the type of location of interest and the site.

33. The method of claim 32, wherein the trip planning information includes locations of interest located within the range of the site, and wherein the locations of interest are associated with the type of location included in the request.

35. A method for retrieving information, comprising:

sending a first request including a site and a type of location of interest; and

receiving trip planning information selected based on a range, the site and the type of location of interest, wherein the range is variable and is based on stored information associated with the type of location of interest.

36. The method of claim 35, wherein the trip planning information includes locations of interest located within the range of the site, and wherein the locations of interest are associated with the type of location of interest included in the request.

37. The method of claim 36, wherein the range is based on the number of locations of interest located within a predetermined distance of the site.

38. A method for searching and retrieving information, comprising:

receiving a request identifying at least a first site, a second site and a type of location of interest;

generating a geometric shape based on the first and second sites, wherein generating the geometric shape includes:

determining a first distance value between the first and second sites;

performing a function on the first distance value to produce a second distance value; and

generating the geometric shape based on the first and second distance values; and

sending information associated with the first and second sites and selected based on the type of location of interest.

39. The method of claim 38, wherein sending information includes:

collecting information related to locations of interest that are associated with the type of location of interest identified in the request, wherein the locations of interest are located within the geometric shape.

9. ***Evidence Appendix.***

Copy of Appellants' Request for Rehearing under 37 CFR § 41.47, which was filed on July 25, 2007.

Attorney's Docket No. 043474/258283 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Kenneth Wills	Confirmation No.:	3005
Appl. No.:	10/367,001	Group Art Unit:	2672
Filed:	February 14, 2003	Examiner:	Amini, Javid A
For:	METHODS AND SYSTEM FOR INFORMATION SEARCH AND RETRIEVAL		

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REQUEST FOR REHEARING UNDER 37 CFR 41.52

This Request for Rehearing is filed in response to the Decision on Appeal decided on May 31, 2007, the Decision on Appeal being in response to an Appeal Brief filed December 7, 2005. Appellants respectfully request the Board's reconsideration of the Decision on Appeal based on the statements below, which are limited to stating with particularity the points believed to have been misapprehended or overlooked by the Board as required by 37 CFR 41.52.

I. Summary of arguments on Appeal

Appellants appealed from the final rejections issued in the Office Action dated April 8, 2005 and the Advisory Action dated September 8, 2005. In both the Appeal Brief and Reply Brief, Appellants presented arguments that both of the cited references (the Bouve and Bellesfield patents) failed to teach or suggest generating a geometric shape based upon a first distance value representing the distance between the first and second sites, and a second distance value determined based on the first distance value, in particular, because neither the Bellesfield nor Bouve patent teaches or suggests a second distance value determined based on the first distance value. The Examiner specifically cited the Bellesfield patent at FIGS. 6 and 7 as disclosing the feature above (see page 3 of Examiner's Answer). Appellants pointed out the deficiency of the Examiner's reasoning based on citations of the Bellesfield patent, which lie mainly in columns 10 and 11, as noted in the Decision on Appeal at page 5. In this regard, Appellants noted that the width of the corridor disclosed in columns 10 and 11 of the Bellesfield patent is not related to the distance between the departure and destination points.

Notably, the Decision on Appeal states agreement with Appellants in regard to the arguments presented on page 4 of the Appeal Brief and summarized briefly above. See page 5 of the Decision on Appeal. However, the Board then presents two new interpretations of the Bellesfield patent, which the Board explained at pages 5 and 6 of the Decision on Appeal. Accordingly, since the Decision on Appeal represented the first occurrence of these two interpretations being presented, this Request for Rehearing is Appellants first opportunity to present arguments with regard to these new interpretations. Appellants respectfully summarize the two new interpretations below. First, the Board describes the disclosure of the Bellesfield patent at col. 9, lines 53-55, which describes the display of a travel route with a video line having a width slightly wider than the widest road along the route. Second, the Board describes the determination of various regions displayed in figure 3 of the Bellesfield patent.

II. Appellants remarks in response to Decision on Appeal.

Appellants respectfully note that the Decision on Appeal correctly identified that Appellants' principal argument is directed to the claimed feature reciting "a second distance value determined based on the first distance value." However, Appellants further respectfully note that the claimed invention as defined in independent claims 29 and 38 further requires that the geometric shape is "generated based on a first distance value representing the distance between the first and second sites." Accordingly, the claimed invention requires that the first distance represent the distance between the first and second sites, and that the second distance is based on the first distance and, therefore, on the distance between the first and second sites. Given this requirement, Appellants respectfully submit that the Board's application of the Bellesfield patent to the claimed invention, as provided at pages 5 and 6 of the Decision on Appeal, falls apart.

In applying the Bellesfield patent's disclosure of col. 9, lines 53-55, which states that "the travel route is preferably displayed with a video line having a width which is slightly wider than the widest road along the route," the Board states that the distance between the departure and destination point are determined and the displayed value is highlighted. See Decision on Appeal, page 5. However, the Board then goes on to state that "this is done to first determine the route or distance of this route and then to determine the widest road for this route and in turn to depict the route in a slightly wider fashion." Id. Appellants respectfully note, as an initial matter, that the

width of the widest road along any route has absolutely no relationship to the value of the length of the route. In this regard, routes of any length could have roads of any width without limitation or correlation to the length of the route. At best, the determination of the length of the route identifies those roads whose corresponding widths must be independently determined in order to determine the widest road for the route. However, if the distance of the route of the Bellesfield patent is read to correlate to the claimed first distance value, then in no case would the first distance value (i.e., the distance of the route of the Bellesfield patent) ever be used as the basis for determining a second distance value of a geometric shape in which the second distance value is determined based on the first distance value. The distance value of the route is unrelated to the width of the widest road whether or not the route defines which roads may be considered with respect to their width. Furthermore, the width of the video line highlighting the route that is described in the Bellesfield patent is also not determined based on the first distance value.

The Board reasons at the transition between pages 5 and 6 of the Decision on Appeal that "since the actual display width is slightly wider than the widest road along the route, there is a broadly defined relationship as required by the second distance claimed." However, this is incorrect since, as stated above, the width of the widest road is not related to the length of the route. The Board also states that the determination of the widest road for the route or distance clearly indicates "to the artisan that the displayed routing is broadly 'based upon' the relationship of the determination of the initial distance." Id., page 6. However, this assertion is also incorrect. In this regard, it appears that the Board is equating "displayed routing" with the claimed geometric shape. Thus, it appears that the Board asserts that the geometric shape is based on the initial distance. However, even if the displayed routing of the Bellesfield patent is based broadly on the initial distance (e.g., length of the route), this does not mean that the width, for example, or any "second distance value" would necessarily be broadly based upon the relationship of the determination of the initial distance. Thus, the statement by the Board that the determination of the widest road for the route or distance clearly indicates "to the artisan that the displayed routing is broadly 'based upon' the relationship of the determination of the initial distance" fails to show how the Bellesfield patent teaches or suggests the claimed invention, because the assertion (even if true) would at best establish that the "displayed routing," and not any second distance value as claimed in the claimed invention, is based upon the initial distance (or first distance value) that defines the length of the route. In other words, the Board has

reasoned only that the displayed routing is based on the length of the route, but that is not what is claimed. To the contrary, the claimed invention requires that the second distance value of a geometric shape be determined based on a first distance value that represents the distance between first and second sites. In other words, for example, the second distance value of the claimed invention (e.g., the width of the generated geometric shape) is based on the distance between the first and second sites (i.e., the first distance value). Accordingly, the cited passage of the Bellesfield patent fails to teach or suggest the claimed feature reciting "a second distance value determined based on the first distance value" as recited in the claimed invention.

As an example, the displayed routing of the Bellesfield patent may set the video line wider than the widest road; however, the determination of the widest road is not based on the distance value defining the length of the route, but rather merely based on the route (i.e., the roads traveled along the route). Accordingly, a longer route may have narrower roads between the same two sites than a shorter route that may have wider roads between the two sites. Thus, basing width on the route does not correlate to dependence on distance as recited in the claimed invention.

The Board further cites figure 3 of the Bellesfield patent as corresponding to the above recited feature at page 6 of the Decision on Appeal. In this regard, the Board states that various regions depicted in figure 3 of the Bellesfield patent correspond "to the claimed determination of first distances since figure 3 shows the latitudes and longitudes of the upper left and lower right portions of these regions." Id. The Board goes on to reason that "the determination of the actual route within these respective regions is based upon a starting point and ending point, thus, determining a second claimed distance broadly 'based upon' the initial distance." Id. As such, the Board apparently defines the region as corresponding to the claimed first distance value and the distance between a starting and ending point of a route as corresponding to the claimed second distance value. However, as stated above, the first distance value (not the second distance value) of the claimed invention is required to provide a value representing the distance between the first and second sites. Thus, the latitudes and longitudes of figure 3 do not correspond to the claimed first distance value, but instead, at best, the starting and ending point of the route may correlate to the claimed first distance value thereby leaving no feature of the

Bellesfield patent to correlate to the claimed second distance value determined based on the first distance value. Accordingly, this cited passage of the Bellesfield patent also fails to teach or suggest the claimed feature reciting "a second distance value determined based on the first distance value" as recited in the claimed invention.

Appellants still maintain that the Bouve patent also fails to teach or suggest the above described feature of the claimed invention, and the Decision on Appeal does not rely upon the Bouve patent as disclosing such feature. Accordingly, as stated in the Reply Brief, Appellants respectfully submit that neither the Bouve patent nor the Bellesfield patent, either individually or in combination, teaches or suggests "a second distance value determined based on the first distance value" as recited in the claimed invention.

Moreover, Appellants also submit that even if it were assumed for the sake of argument that the passages used in support of the Boards two new interpretations actually disclosed that a second distance value was determined based on a first distance value, the new interpretations still do not render the claimed invention obvious, either alone or in combination with the Bouve patent. In this regard, Appellants respectfully note that the claimed invention is concerned with generating the geometric shape for, as recited, for example, in independent claim 29, "receiving information associated with the first and second sites and selected based on the type of location of interest and selected using the geometric shape." As such, Appellants respectfully submit that neither of the two new interpretations of the Bellesfield patent that have been put forth by the Board have anything to do with receiving information selected based on the type of location of interest using the selected geometric shape, and therefore the new interpretations are unrelated to the functions of the claimed invention as recited in the independent claims.

III. Conclusion

Accordingly, based on the points made above and the arguments previously presented in the Appeal Brief and Reply Brief, Appellants respectfully request that the rejections be reversed.

Respectfully submitted,

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10. ***Related Proceedings Appendix.***

Copy of Decision on Appeal for Appeal 2007-0967, decided May 31, 2007.

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENNETH WILLS

Appeal 2007-0967
Application 10/367,001
Technology Center 2600

Decided: May 31, 2007

Before JAMES D. THOMAS, JOSEPH F. RUGGIERO, and ALLEN R. MACDONALD, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal involves claims 29, 30, 38 and 39. We have jurisdiction under 35 U.S.C. §§ 6(b) and 134(a). In a facsimile communication received on May 16, 2007, Appellant waived the confirmation of attendance at the Oral Hearing set for May 23, 2007.

As best representative of the disclosed and claimed invention, independent claim 29 is reproduced below:

29. A method for retrieving information, comprising;

sending a request identifying a first site, a second site and a type of location of interest;

generating a geometric shape that defines an area, the geometric shape being generated based on a first distance value representing the distance between the first and second sites, and a second distance value determined based on the first distance value; and

receiving information associated with the first and second sites and selected based on the type of location of interest and selected using the geometric shape.

The following references are relied on by the Examiner:

Bellesfield	US 6,282,489 B1	Aug. 28, 2001 (Filed May 28, 1993)
Bouve	US 5,682,525	Oct. 28, 1997 (Filed January 11, 1995)

All claims on appeal, claim 29, 30, 38, and 39, stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the Examiner relies upon Bellesfield in view of Bouve.

Rather than repeat the positions of the Appellant and the Examiner, reference is made to the Brief and Reply Brief for Appellant's positions, and to the Answer for the Examiner's positions.

OPINION

We affirm.

Our consideration of the issues on appeal focuses on independent claim 29 as representative of that claim and independent claim 38. No arguments are presented before us as to the actual features recited in dependent claims 30 and 39 since Appellant's positions at page 5 of the principal Brief on appeal argue for patentability of these dependent claims based upon the patentability alleged for their parent independent claims.

At the outset, to the extent the Brief and Reply Brief allege that the Examiner has not set forth in the Final Rejection details of the Examiner's reliance upon Bouve, this position is misplaced. The Final Rejection mailed April 8, 2005, rejected all pending claims at that time, including claims 17 through 30, 32, 33, and 35 through 39 as being obvious within 35 U.S.C. § 103 over the combined teachings of Bellesfield in view of Bouve, the same rejection of the present claims on appeal. On the one hand, Appellant alleges at the top of page 3 of the principal Brief on appeal, "that although the Bouve patent was cited against independent claims 29 and 38 in the Final Office Action of April 8, 2005, no specific reference to the Bouve patent was provided". Appellant wrongly asserts at page 3 of the Reply Brief that "the Bouve patent, which was not cited in reference to independent claims 29 and 38 in . . . the Final Office Action." In fact, the Examiner's Final Rejection at pages 3 through 5 makes detailed references to Bouve, the reliance upon which was discussed in details at pages 4 through 6 of the after Final communication received on July 7, 2005.

Appellant's arguments in the Brief and Reply Brief focus only on the generating clause of representative independent claim 29, reproduced earlier. Not only do the positions set forth by Appellant in the principal and Reply Brief not argue before us that the references are not properly combinable

within 35 U.S.C. § 103, the arguments are presented as if two separate rejections of the claims under 35 U.S.C. § 102 are presented for our consideration on appeal. The Brief and Reply Brief do not consider the Examiner's arguments of combinability or contest them.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1996). Furthermore, "'there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness' . . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007)(quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

As compared with the Final Rejection, the Examiner's statement of the rejection at pages 3 through 6 of the Answer is an expanded analysis of the rejection which has been further buttressed by the responsive arguments at pages 6 through 8 of the Answer. Since we consider these positions of the Examiner to be consistent with and follow the reasoning of the above noted precedent, we sustain the rejection of all claims on appeal under 35 U.S.C. § 103.

Although still contesting the Examiner's views with respect to Bellesfield in the Reply Brief, with respect to the above-noted generating clause of representative independent claim 29 on appeal, Appellant would appear to agree with the Examiner's views that at least the features of generating a shape based on a first distance value between two locations was taught in Bellesfield. As in the principal Brief on appeal, Appellant's principal argument is directed to the feature of this clause alleging that the requirement of this claim that a second distance value be determined based on the first distance value is not met by Bellesfield alone or in combination with Bouve.

This identical argument was made as well beginning at page 4 of the principal Brief on appeal. Appellant's own consideration there of the teachings of Bellesfield makes reference to the teachings at columns 10 and 11 of this reference, asserting that the width of the corridor is not related to the distance between the departure and destination points. We agree with the views expressed here as to this portion of the reference since it focuses upon a predetermined distance from a so-called shape point to determine the location of a place of interest. On the other hand, however, the teaching at the bottom of column 9, clearly indicates otherwise. At lines 53 through 55 it is stated that "the travel route is preferably displayed with a video line having a width which is slightly wider than the widest road along the route." Once the route and the distance between the departure and destination point are determined in Bellesfield, the displayed value is highlighted as stated. This is done to first determine the route or the distance of this route and then to determine the widest road for this route or distance and in turn to depict the route in a slightly wider fashion, thus clearly indicating to the artisan that

the displayed routing is broadly "based upon" the relationship of the determination of the initial distance. Stated otherwise, since the actual display width is slightly wider than the widest road along the route, there is a broadly defined relationship as required by a second distance claimed.

From our studied consideration of Bellesfield alone, the broadly claimed generation of a geographic shape appears to be met initially by the determination of the various regions depicted in figure 3, including the respective latitudes and longitudes of an entire geographic area or region. This corresponds to the claimed determination of first distances since figure 3 shows the latitudes and longitudes of the upper left and lower right portions of these regions. Next, the determination of the actual route within these respective regions is based upon a starting point and ending point, thus, determining a second claimed distance broadly "based upon" the initial distance. The determination of the starting and ending points of a given route selectively has distance values associated with the figure 5 depiction of the length of various routes or route/road segments which may in turn be considered to be the first distance claimed. Correspondingly, the determination of the second claimed distance is broadly "based upon" this determination since the routine/places/portions of figure 5 indicates a distance along the length to determine a given place as well as a distance from a link or road segment such as the depiction of place 3 in figure 5.

Moreover, our detailed consideration of Bouve merely confirms what the artisan would have appreciated from Bellesfield. Note especially figures 1 through 5, 9, 10, and 12. The claimed geometric shape that defines an area is clearly shown at various levels and the different portions of figures 3, 4, and 4A. Country maps represent various regions or areas as do state and city

maps, each of which are selectable. Each depicts some form of an area of interest and makes available to the user items of interest in and around the particular region or vicinity of a selected area as shown in a different manner in these figures. Figure 2 shows downtown Boston, Mass. and the geographic vicinity within this downtown region or area. Bouve teaches that for each identifiable "item of interest" there are correlated geographic correspondences provided. A given area or region at one of these levels depicts various distances of the type broadly set forth in claim 1 as a first distance between points. Figure 2 also shows relative distances, like the claimed second distance, which is in turn "based on" the first distances within a given region or locational area/region. The discussion at column 6, lines 55 through 60 indicates the ability of a user to "locate items of interest within the geographic vicinity of the user and relative to the user's current location. The scope of the geographic vicinity is generally within walking distance." Thus, the artisan would well appreciate that the claimed first and second distance are relatively illustrated and that the second distance is determined by or based upon or within the first distances illustrated.

In view of the foregoing, the decision of the Examiner rejecting all claims on appeal under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. §1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

pgc

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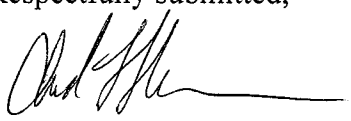
CONCLUSION

For at least the foregoing reasons, Applicants respectfully request that the rejections be reversed.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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